Inapplicability of Certain 1992 Amendments to Indian Public Housing

Amendment by Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a(f) of this title.

Section Referred to in Other Sections

This section is referred to in sections 1437c, 8013 of this title.

§ 1437f. Low-income housing assistance

(a) Authorization for assistance payments

For the purpose of aiding low-income families in obtaining a decent place to live and of promoting economically mixed housing, assistance payments may be made with respect to existing housing in accordance with the provisions of this section. A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.

(b) Rental certificates and other existing housing programs

[(1)] The Secretary is authorized to enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make assistance payments to owners of existing dwelling units in accordance with this section. The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriation Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o) of this section) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period. In areas where no public housing agency has been organized or where the Secretary determines that a public housing agency is unable to implement the provisions of this section, the Secretary is authorized to enter into such contracts and to perform the other functions assigned to a public housing agency by this section.

(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with subchapter II–A of this chapter. Each contract entered into under this subsection shall be for a term of not more than 60 months.

(c) Contents and purposes of contracts for assistance payments; amount and scope of monthly assistance payments

(1) An assistance contract entered into pursuant to this section shall establish the maximum monthly rent (including utilities and all maintenance and management charges) which the owner is entitled to receive for each dwelling unit with respect to which such assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically but not less than annually for existing or newly constructed rental dwelling units of various sizes and types in the market area suitable for occupancy by persons assisted under this section, except that the maximum monthly rent may exceed the fair market rental (A) by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent or that such higher rent is necessary to the implementation of a housing strategy as defined in section 12705 of this title, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B). In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980. Proposed fair market rentals for an area shall be published in the Federal Register with reasonable time for public comment, and shall become effective upon the date of publication in final form in the Federal Register. Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section. Notwithstanding any other provision of this section, after October 12, 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative. The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York. The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County. If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.

(2)(A) The assistance contract shall provide for adjustment annually or more frequently in the

Par. (1) designation struck out and par. (2) added by Pub. L. 101–625.
maximum monthly rents for units covered by the contract to reflect changes in the fair market rentals established in the housing area for similar types and sizes of dwelling units or, if the Secretary determines, on the basis of a reasonable formula. However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal year 1997. Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. The immediately foregoing two sentences shall be effective only during fiscal year 1995, fiscal year 1996 prior to April 26, 1996, and fiscal year 1997.

(B) The contract shall further provide for the Secretary to make additional adjustments in the maximum monthly rent for units under contract to the extent he determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from such general increases in property taxes, utility rates, or similar costs which are not adequately compensated for by the adjustment in the maximum monthly rent authorized by subparagraph (A). The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption. Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project’s operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence. The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4831b of this title.

(C) Adjustments in the maximum rents under subparagraphs (A) and (B) shall not result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, as determined by the Secretary. In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units. If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied. The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments.
§ 1437f  TITLE 42—THE PUBLIC HEALTH AND WELFARE  Page 2292

of the owner. Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.

(3)(A) The amount of the monthly assistance payment with respect to any dwelling unit shall be the excess of the rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 1437a(a) of this title if—

(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses).

(ii) A public housing agency shall not approve such an excess rent for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1) of this section. A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency’s reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.

(4) The assistance contract shall provide that assistance payments may be made only when a family occupies a dwelling unit under lease for occupancy by a family determined to be a lower income family at the time it initially occupied such dwelling unit or by a family that qualifies to receive assistance under subsection (b) of this section, if—

(A) the contract provides that the owner is to receive for the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) of this section may pay a higher percentage of income than that specified under section 1437a(a) of this title if—

(I) the family notifies the Secretary in writing of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses).

(ii) A public housing agency shall not approve such an excess rent for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1) of this section. A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency’s reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

(5) Assistance payments may be made with respect to up to 100 per centum of the dwelling units in any structure upon the application of the owner or prospective owner. Within the category of projects containing more than fifty units and designed for use by non-elderly and nonhandicapped persons which are not subject to mortgages purchased under section 305 of the National Housing Act, the Secretary may give preference to applications for assistance involving not more than 20 per centum of the dwelling units in a project. In accordance with such preference, the Secretary shall compare applications received during any time periods not exceeding sixty days in duration.

(6) The Secretary shall take such steps as may be necessary, including the making of contracts for assistance payments in excess of the amounts required at the time of the initial renting of dwelling units, the reservation of annual contributions authority for the purpose of amending housing assistance contracts, or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts, to assure that assistance payments are increased on a timely basis to cover increases in maximum monthly rents or decreases in family incomes.

(7) To the extent authorized in contracts entered into by the Secretary with a public housing agency, such agency may purchase any structure containing one or more dwelling units assisted under this section for the purpose of reselling the structure to the tenant or tenants occupying units aggregating in value at least 80 per centum of the structure’s total value. Any such resale may be made on the terms and conditions prescribed under section 1437c(h) of this title and subject to the limitation contained in such section.

See References in Text note below.
(8) Each contract under this section (other than a contract for assistance under the certificate or voucher program) shall provide that the owner will notify tenants at least 90 days prior to the expiration of the contract of any rent increase which may occur as a result of the expiration of such contract.

(9) Not less than 1 year prior to terminating any contract under which assistance payments are received under this section, other than a contract under the certificate or voucher program, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination. The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision. For purposes of this paragraph, the term "termination" means the expiration of the assistance contract or an owner's refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.

(10) If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1) of this section, the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) of this section and the value of the low-income housing after rehabilitation.

(d) Required provisions and duration of contracts for assistance payments; waiver of limitation

(1) Contracts to make assistance payments entered into by a public housing agency with an owner of existing housing units shall provide (with respect to any unit) that—

(A) the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection as established by the owner and agreed to by the agency; and

(B)(i) the lease between the tenant and the owner shall be for at least one year or the term of such contract, whichever is shorter, and shall contain other terms and conditions specified by the Secretary;

(ii) during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

(iii) during the term of the lease, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action; and

(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(II) is violating a condition of probation or parole imposed under Federal or State law;

(C) maintenance and replacement (including redecoration) shall be in accordance with the standard practice for the building concerned as established by the owner and agreed to by the agency; and

(D) the agency and the owner shall carry out such other appropriate terms and conditions as may be mutually agreed to by them.

(2)(A) Each contract for an existing structure entered into under this section shall be for a term of not less than one month nor more than one hundred and eighty months. The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date. Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (i) the Secretary and the public housing agency approve such action, and (ii) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section, except that the
Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (ii) are met. Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. (B) The Secretary shall permit any public housing agency to approve the attachment of assistance under subsection (b)(1) of this section with respect to any newly constructed structure if—

(i) the owner or prospective owner agrees to construct the structure other than with assistance under this chapter and otherwise complies with the requirements of this section; and

(ii) the aggregate assistance provided by the public housing agency pursuant to this subparagraph and the last sentence 3 of subparagraph (A) does not exceed 15 percent of the assistance provided by the public housing agency.

(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner’s successors in interest. To the extent assistance is used as provided in the penultimate sentence 4 of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.

(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant’s ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(E) The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance in such year, reached the 15 percent limitations contained in subparagraphs (A) and (B), and shall report to the Congress on the results of such survey.

(F) (i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under subsection (a) of this section, the Secretary shall credit the owner of the project with (A) the aggregate assistance provided by the public housing agency and the owner of such units.

(ii) The budget authority available under section 1437(c) of this title for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 4 of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

(iii) The budget authority available under section 1437c(c) of this title for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under subsection (b)(2) of this section (as such subsection existed immediately before October 1, 1993) only for such purpose.

(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(H) An owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992 [42 U.S.C. 13619]) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13611 et seq.].

(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.

3 See References in Text note below.

4 So in original. Probably should be section "671".
(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.

(e) Restrictions on contracts for assistance payments

(1) Nothing in this chapter shall be deemed to prohibit an owner from pledging, or offering as security for any loan or obligation, a contract for assistance payments entered into pursuant to this section: Provided, That such security is in connection with a project constructed or rehabilitated pursuant to authority granted in this section, and the terms of the financing or any refinancing have been approved by the Secretary.


(f) Definitions

As used in this section—

(1) the term "owner" means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, having the legal right to lease or sublease dwelling units;

(2) the terms "rent" or "rental" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative;

(3) the term "debt service" means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this chapter;

(4) the term "participating jurisdiction" means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.];

(5) the term "drug-related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 802 of title 21);

(6) the term "project-based assistance" means rental assistance under subsection (b) of this section that is attached to the structure pursuant to subsection (d)(2) of this section; and

(7) the term "tenant-based assistance" means rental assistance under subsection (b) or (c) of this section that is not project-based assistance.

(g) Regulations applicable for implementation of assistance payments

Notwithstanding any other provision of this chapter, assistance payments under this section may be provided, in accordance with regulations prescribed by the Secretary, with respect to some or all of the units in any project approved pursuant to section 1701q of title 12.

(h) Nonapplicability of inconsistent provisions to contracts for assistance payments

Sections 1437c(e) and 1437d of this title, and any other provisions of this chapter which are inconsistent with the provisions of this section shall not apply to contracts for assistance entered into under this section.

(i) Receipt of assistance by public housing agency under other law not to be considered

The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013(b)(1)], or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.

(j) Assistance for manufactured homes

(1) The Secretary may enter into contracts to make assistance payments under this subsection to assist low-income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family or with respect to the rental by such family of a manufactured home and the real property on which it is located. In carrying out this subsection, the Secretary may—

(A) enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or

(B) enter into such contracts directly with the owners of such real property.

(2)(A) A contract entered into pursuant to this paragraph shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this paragraph.

(B) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this paragraph, and on which is located a manufactured home which is owned by such family shall be the difference between the rent the family is required to pay under section 1437a(a) of this title and the sum of—

(i) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

(ii) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

(iii) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

(3)(A) Contracts entered into pursuant to this paragraph shall establish the maximum monthly rent permitted with respect to the manufac-
§ 1437f

located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of a manufactured home and the real property on which it is located suitable for occupancy by families assisted under this paragraph, except that the maximum monthly rent may exceed the fair market rental by more than 10 but not more than 20 per centum where the Secretary determines that special circumstances warrant such higher maximum rent.

(b) The amount of any monthly assistance payment with respect to any family which rents a manufactured home and the real property on which it is located and which is assisted under this paragraph shall be the difference between the rent the family is required to pay under section 1437a(a) of this title and the sum of—

(i) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

(ii) the maximum monthly rent permitted with respect to the manufactured home and the real property on which it is located.

(4) The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

(5) Each contract entered into under this subsection shall be for a term of not less than one month and not more than 180 months, except that in any case in which the manufactured home park is substantially rehabilitated or newly constructed, such term may not be less than 240 months, nor more than the maximum term for a manufactured home loan permitted under section 2(b) of the National Housing Act [12 U.S.C. 1703(b)].

(6) The Secretary may carry out this subsection without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

(7) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this subsection, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)], and the Secretary may increase such limitation periodically but not less than annually using a payment standard in accordance with section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)], and the Secretary may increase such limitation periodically but not less than annually using a payment standard in accordance with section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)].

(8) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.

(k) Verification of income

The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act [42 U.S.C. 301 et seq.], the Food Stamp Act of 1977 [7 U.S.C. 1231 et seq.], or title XIX. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.


(n) Assistance for dwellings without bathrooms and kitchens; conditions; waiver of limitations

In making assistance available under subsections (b)(1) and (e)(2) of this section, the Secretary may provide assistance with respect to residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities, if—

(1) the property is located in an area in which there is a significant demand for such units, as determined by the Secretary;

(2) the unit of general local government in which the property is located and the local public housing agency approve of such units being utilized for such purpose; and

(3) in the case of assistance under subsection (b)(1) of this section, the unit of general local government in which the property is located and the local public housing agency certify to the Secretary that the property complies with local health and safety standards. The Secretary may waive, in appropriate cases, the limitation and preference described in the second and third sentences of section 1437a(b)(3) of this title with respect to the assistance made available under this subsection.

(o) Rental vouchers

(1) The Secretary may provide assistance using a payment standard in accordance with this subsection. The payment standard shall be used to determine the monthly assistance which may be paid for any family, as provided in paragraph (2) of this subsection, and shall be based on the fair market rental established under subsection (c) of this section.

(2) The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family’s monthly adjusted income, except that such monthly assistance payment shall not exceed the amount by which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family’s monthly income.

5 See References in Text note below.
(3)(A) Assistance payments may be made only for (i) a family determined to be a very low-income family at the time it initially receives assistance, (ii) a family previously assisted under this chapter, (iii) a family that is determined to be a lower income family at the time it initially receives assistance and that is displaced by activities under section 1437f(c)\(^7\) of this title, (iv) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act, or (v) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4113, 4116].

(B) For the purpose of selecting families to be assisted under this subsection, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act [12 U.S.C. 12701 et seq.].

(4) If a family vacates a dwelling unit before the expiration of a lease term, no assistance payment may be made with respect to the unit after the month during which the unit was vacated.

(5) A contract with a public housing agency for annual contributions under this subsection shall be for an initial term of sixty months. The Secretary shall require (with respect to any unit) that (A) the public housing agency inspect the unit before any assistance payment may be made to determine that it meets housing quality standards for decent, safe, and sanitary housing established by the Secretary for the purpose of this section, and (B) the public housing agency make annual or more frequent inspections during the contract term. No assistance payment may be made for a dwelling unit which fails to meet such quality standards, unless any such failure is promptly corrected by the owner and the correction verified by the public housing agency.

(A) The amount of assistance payments under this subsection may, in the discretion of the public housing agency, be adjusted annually where necessary to assure continued affordability. The aggregate amount of adjustments pursuant to the preceding sentence may not exceed the amount of any excess of the annual contributions provided for in the contract over the amount of assistance payments actually paid (including amounts which otherwise become available during the contract period).

(B) For the purpose of subparagraph (A), each contract with a public housing agency for annual contributions under this subsection shall provide annual contributions equal to 115 percent of the estimated aggregate amount of assistance required during the first year of the contract.

(C) Any amounts not needed for adjustments under subparagraph (A) may be used to provide assistance payments for additional families.

(7) A public housing agency may utilize authority available under this subsection to provide assistance with respect to cooperative or mutual housing which has a resale structure which maintains affordability for low-income families where the agency determines such action will assist in maintaining the affordability of such housing for such families.

(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.

(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with subchapter II–A of this chapter. Each contract entered into under this paragraph shall be for a term of not more than 60 months.

(10)(A)\(^8\) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section \(^9\) (b). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.

(11)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist low-income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property.

(B)(i) A contract entered into pursuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located (and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.
(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family’s monthly adjusted income is exceeded by the sum of—

(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which 10 percent of the family’s monthly income.

(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)], and the Secretary may increase such limitation in high cost areas in the manner described in such section.

(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.

(p) Shared housing for elderly and handicapped

In order to assist elderly families (as defined in section 1437a(b)(3) of this title who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum habitability standards for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.

(q) Administrative fees for certificate and housing voucher programs

(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o) of this section. The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) of this section for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(2) (A) The Secretary shall also establish reason-able fees (as determined by the Secretary) for—

(i) the costs of preliminary expenses (not to exceed $275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o) of this section;

(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(iii) extraordinary costs approved by the Secretary.

(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (o) of this section and shall take into account local cost differences.

(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 [42 U.S.C. 13631] to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1) [42 U.S.C. 8013(b)(1)]. Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

(C) The budget authority available under section 1437c(c) of this title for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992, and by $5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).

(4) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.

---

10So in original. Probably should be section “671”. 
(r) Portability of certificates and vouchers; authority of public housing agency; Secretary to consider reduction in families in preceding fiscal year; authority of Secretary under other law unrestricted

(1) Any family assisted under subsection (b) or (o) of this section may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same State, or the same or a contiguous metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency.

(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection, the public housing agency approving the assistance shall have such responsibility.

(3) In providing assistance under subsection (b) or (o) of this section for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.

(s) Prohibition of denial of certificates and vouchers to residents of public housing

In selecting families for the provision of assistance under this section (including subsection (o) of this section), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.


(u) Assistance for residents of rental rehabilitation projects

In the case of low-income families living in rental projects rehabilitated under section 1437o of this title or section 1490m of this title before rehabilitation—

(1) certificates or vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding;

(2) at the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project; and

(3) the Secretary shall allocate assistance for certificates or vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).

(v) Extension of expiring contracts

The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996.

(w) Renewal of expiring contracts

Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since August 22, 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.

(x) Family unification

(1) Increase in budget authority

The budget authority available under section 1437c(c) of this title for assistance under subsection (b) of this section is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.

(2) Use of funds

The amounts made available under this subsection shall be used only in connection with housing certificate assistance under this section on behalf of any family (A) who is otherwise eligible for such assistance, and (B) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family’s child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

(3) Allocation

The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that
describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

(4) Definitions
For purposes of this subsection:
(A) Applicant
The term “applicant” means a public housing agency or any other agency responsible for administering assistance under this section.
(B) Public child welfare agency
The term “public child welfare agency” means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(y) Homeownership option
(1) Use of assistance for homeownership
A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—
(A) is a first-time homeowner;
(B)(i) participates in the family self-sufficiency program under section 1437u of this title of the public housing agency providing the assistance; or
(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);
(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;
(D) participates in a homeownership and housing counseling program provided by the agency; and
(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

(2) Monthly assistance payment
(A) In general
Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) of this section exceeds 30 percent of the family’s monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family’s monthly income.

(B) Exclusion of equity from income
For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

(3) Recapture of certain amounts
Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

(4) Downpayment requirement
Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 1437u(d) of this title. Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

(5) Ineligibility under other programs
A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act [42 U.S.C. 12721 et seq.], the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987 [12 U.S.C. 4101 et seq.], and section 1472 of this title.

(6) Inapplicability of certain provisions
Assistance under this subsection shall not be subject to the requirements of the following provisions:
(A) Subsection (c)(3)(B) of this section.
(B) Subsection (d)(1)(B)(i) of this section.
(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.
(D) Any other provisions of this section concerning contracts between public housing agencies and owners.
(E) Any other provisions of this chapter that are inconsistent with the provisions of this subsection.

(7) Reversion to rental status
(A) FHA-insured mortgages
If a family receiving assistance under this subsection for occupancy of a dwelling de-
faults under a mortgage for the dwelling insured by the Secretary under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 1437u(d)(3) of this title may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

(B) Other mortgages

If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act [12 U.S.C. 1701 et seq.], the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

(C) All mortgages

A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

(8) "First-time homeowner" defined

For purposes of this subsection, the term "first-time homeowner" means—

(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

(B) any other family, as the Secretary may prescribe.

(2) Termination of section 1437f Contracts and reuse of recaptured budget authority

(1) General authority

The Secretary may reuse any budget authority, in whole or part, that is recaptured on account of termination of a housing assistance payments contract (other than a contract for tenant-based assistance) only for one or more of the following:

(A) Tenant-based assistance

Pursuant to a contract with a public housing agency, to provide tenant-based assistance under this section to families occupying units formerly assisted under the terminated contract.

(B) Project-based assistance

Pursuant to a contract with an owner, to attach assistance to one or more structures under this section, for relocation of families occupying units formerly assisted under the terminated contract.

(2) Families occupying units formerly assisted under terminated contract

Pursuant to paragraph (1), the Secretary shall first make available tenant- or project-based assistance to families occupying units formerly assisted under the terminated contract. The Secretary shall provide project-based assistance in instances only where the use of tenant-based assistance is determined to be infeasible by the Secretary.

(3) Effective date

This subsection shall be effective for actions initiated by the Secretary on or before September 30, 1995.

(aa) Omitted

(bb) Transfer of budget authority

If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.
AMENDMENT OF SECTION

For termination of amendment by section 101(e) [title II, § 263(d)] of Pub. L. 104–134, see Effective and Termination Dates of 1996 Amendments note below.

For termination of amendment by section 402(f) [title II, § 1008, Pub. L. 104–99, see Effective and Termination Dates of 1996 Amendments note below.

REFERENCES IN TEXT

Section 305 of the National Housing Act, referred to in subsec. (c)(5), is section 305 of act June 27, 1934, which was classified to section 1720 of Title 12, Banks and Banking, and was repealed by Pub. L. 98–181, title IV, § 435(a), Nov. 30, 1983, 97 Stat. 1240.

The Cranston-Gonzales National Affordable Housing Act, referred to in subsecs. (d)(1)(A), (f)(4), and (e)(3)(A)(iv), (B), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4679. Title I of the Act is classified generally to subchapter I (§ 12701 et seq.) of chapter 130 of this title. Title II of the Act, also known as the “HOME Investment Partnerships Act”, is classified principally to subchapter II (§ 12721 et seq.) of chapter 130 of this title. Title IV of the Act, also known as the “Homeownership and Opportunity Through HOPE Act”, enacted subchapter II–A (§ 1437aaa et seq.) of this chapter and subchapter IV (§ 12871 et seq.) of chapter 130 of this title. Amended sections 1437c, 1437f, 1437g, 1437h, and 1437i of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title.

For complete classification of this Act to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

The Housing and Community Development Act of 1997, referred to in subsec. (y)(5), is Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1815, as amended. Title II of the Act, also known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, is classified principally to chapter 2 (§ 1081 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

The National Housing Act, referred to in subsec. (y)(7), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 701 et seq.) of Title 12. For complete classification of this Act to the Code, see section 701 of Title 12 and Tables.

Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, referred to in subsec. (a)(2)(B), is section 1012 of Pub. L. 100–242, which is set out below.

CODIFICATION

Section 203(a) of Pub. L. 100–242, as amended, which was formerly set out in a note under section 1711 of Title 12, Banks and Banking, and which provided that on Nov. 28, 1990, the amendment made by section 262 of Pub. L. 100–242 is repealed and section is to read as it would without such amendment, was omitted in the general amendment of subtitle A of title II of Pub. L. 100–242 by Pub. L. 101–625.

PRIOR PROVISIONS

A prior section 8 of act Sept. 1, 1957, ch. 896, 50 Stat. 891, as amended, authorized promulgation of rules and regulations by the Authority and was classified to section 1408 of this title, prior to the general revision of this chapter by Pub. L. 93–383.

AMENDMENTS

1996—Subsec. (c)(2)(A). Pub. L. 104–204 inserted “... fiscal year 1996 prior to April 26, 1996, and fiscal year 1997” after “fiscal year 1995” in two places, substituted “Except for assistance under the certificate program, for “For”, inserted after fourth sentence “In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area.”, and substituted “The immediately foregoing two sentences” for “The immediately foregoing sentence”. Subsec. (c)(5). Pub. L. 104–134, § 101(c) [title II, § 309(b)(2), (d)], temporarily substituted “... other than a contract under the certificate or voucher program” for “(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (c) of this section)”. See Effective and Termination Dates of 1996 Amendments note below.

Amendment of this title by Pub. L. 104–204 is effective as of April 26, 1996, except as otherwise provided. For purposes of this section, Title I of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11361 et seq.) is deemed to have been in effect as of the date of enactment of such Act.”


Subsec. (d)(2)(A). Pub. L. 104–99, § 402(d)(6)(A)(iii), (f), temporarily struck out at end "Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitations under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph." See Effective and Termination Dates of 1996 Amendments note below.


Subsec. (d)(3)(B). Pub. L. 104–99, § 402(d)(3), (f), temporarily amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "In selecting families to be assisted, preference shall be given to families which, at the time they are seeking assistance, occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are voluntarily displaced (including displacement because of disposition of a multifamily housing project under section 1701z–11 of title 12), or are paying more than 50 per centum of family income for rent. A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary) to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this section) may be families who do not qualify for such preference. The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to reflect local housing needs which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2) of this section, (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing or in reversing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family; (v) assisting families that may receive assistance under this section; (vi) assisting families who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital, nursing home, or other institution where the individual disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under this section by reason of drug-related or violent criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)." See Effective and Termination Dates of 1996 Amendments note below.

Subsec. (t). Pub. L. 104–193, § 101(e)(ii) (title II, § 209(a), (d)), temporarily repealed subsec. (t) which read as follows:

(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section or determined by the Secretary to be assisted, preference shall be given to families as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, in cases in which return to the family or extended family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family; (v) assisting families that may receive assistance under this section; (vi) assisting families who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital, nursing home, or other institution where the individual disability which, because of the configuration of their homes, prevents them from access to or use of their homes; and (vi) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under this section by reason of drug-related or violent criminal activity (as defined in subsection (f)(5) of this section) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist)." See Effective and Termination Dates of 1996 Amendments note below.


Subsec. (v). Pub. L. 104–99, § 402(c), amended subsec. (v) generally. Prior to amendment, subsec. (v) read as follows:

(1) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract for project-based loan management assistance, if the owner agrees to continue providing housing for low-income families during the term of the contract.

(2) The eligibility of a multifamily residential loan project for loan management assistance under this section shall be determined in regard to whether the project is subsidized or unsubsidized.

(3) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis of one or more of the following factors: (A) the project has one or more serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Low-Income Housing Preservation and Resident Homeownership Act of 1990; .

Subsec. (bb). Pub. L. 104–193, § 101(e)(ii) (title II, § 209(a), (d)), temporarily repealed subsec. (bb) which read as follows:


1994—Subsec. (c)(2)(A). Pub. L. 103–327 inserted at end: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unsubsidized unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during the period of time of the last annual rental adjustment, where the
Subsec. (d)(1)(A)(iii). Pub. L. 102–550, §145, inserted "any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises." before "or any drug-related criminal activity including the sale of illegal drugs or the possession of illegal drugs, or the manufacture of illegal drugs, or the participation in the drug-trafficking activities of the tenant, shall be defined as a drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments) (A) to the extent that funds accrue to the Secretary from the refinancing of the owners of dwelling units if such agency may to other owners. In such cases, the Secretary may establish initial rents within applicable limits, or (C) was subject to a mortgage that has been refinanced under section 223a(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

(1) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only to (A) the extent that funds accrue to the Secretary from the refinancing; and (B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (o)(2)(B). Pub. L. 102–550, §102(g), inserted at end "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based appropriations for contract amendments, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 4851b of this title.

Pub. L. 102–550, §142, inserted after first sentence "The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption."

Subsec. (c)(4). Pub. L. 102–550, §141(a), inserted "or by a family that qualifies to receive assistance under subsection (b) of this section pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990" after first comma in first sentence.

Subsec. (c)(9). Pub. L. 102–550, §143, inserted before period at end "and such term shall include termination of the contract for business reasons."

pose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability agreement required under this paragraph may be waived by the Secretary to so implement the preceding sentence.

Subsec. (c)(3). Pub. L. 101–625, § 549(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c)(9). Pub. L. 101–625, § 544, inserted after first sentence "The owner’s notice shall include a statement that the owner may agree to a renewal of the contract, thus avoiding the termination."

and inserted at end "Within 30 days of the Secretary’s finding, the owner shall provide written notice to each tenant of the Secretary’s decision."

Subsec. (c)(10). Pub. L. 101–625, § 572(2), substituted "low-income housing" for "lower income housing".

Subsec. (d)(1). Pub. L. 101–625, § 545(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the selection of tenants for such unit shall be the function of the owner, subject to the proviso that the annual contract or contracts for structures shall be entered into with the Secretary and the agency, except that (i) the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing, are paying more than 30 per centum of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for the preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (one such higher percentage as determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) of this section or determine that the Secretary may provide assistance to a structure under this paragraph shall (at the option of the Secretary) be renewable for 2 additional 5-year terms, except that the tenant’s notice shall include a statement that the owner may agree to a renewal of the contract, thus avoiding the termination.";


Subsec. (d)(2)(A). Pub. L. 101–625, § 552(b), inserted after first sentence "The Secretary shall permit public housing agencies to enter into contracts for assistance payments that is attached to a project for rehabilitation of more than 50 per centum of the public housing agency subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years.";

Subsec. (d)(2)(D), (E). Pub. L. 101–625, § 547(a), (b), added subpars. (D) and (E).

Subsec. (e)(2). Pub. L. 101–625, § 289(b), struck out par. (2) which read as follows: "For the purpose of upgrading and thereby preserving the Nation’s housing stock, the Secretary is authorized to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing eligible for such assistance."

and inserted at end "The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading. The amount of assistance under this paragraph shall not exceed such units of any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1439(d) of this title, and which would include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted."

Subsec. (f)(1). Pub. L. 101–625, § 548(a), substituted "dwelling units" for "newly constructed or substantially rehabilitated dwelling units as described in this section".

Page 2305 TITLE 42—THE PUBLIC HEALTH AND WELFARE §1437f
upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A).

The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.

Pub. L. 101–235, §127(2), (3), inserted at end “In order to maximize the availability of low-income housing, in providing the assistance under this paragraph, the Secretary shall include in any calculation or determination regarding the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of title 26 (or from any syndication of such credits) with respect to the housing. For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 1438(d) of this title, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.” 1988—Subsec. (b)(1). Pub. L. 100–242, §141, inserted provisions at end authorizing Secretary to enter into separate contributions contracts with each public housing agency to obligate authority approved each year, beginning with fiscal year 1988.

Subsec. (c)(1). Pub. L. 100–242, §142(a), inserted before last sentence “Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.”

Pub. L. 100–242, §142(b), inserted at end “The Secretary shall establish separate fair market rents under this paragraph for Westchester County in the State of New York.”

Pub. L. 100–242, §142(c)(1), inserted at end “If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.” 

Subsec. (c)(2)(C). Pub. L. 100–242, §1004(a)(1), substituted “under subparagraphs (A) and (B)” for “as hereinafore provided”.

Pub. L. 100–268, §1004(2), inserted at end “Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to November 7, 1988, shall be restored to the maximum monthly rent in...
effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents. For any project which has had its maximum monthly rents multiplied by the number of months that the reduced maximum monthly rents were in effect.’’

Pub. L. 100–242, §142(c)(2), substituted “assisted units and assisted units of similar quality and age in the same market area” for “assisted and comparable unassisted units” and inserted at end “If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.’’

Pub. L. 100–242, §142(c)(2), substituted “(ii)” for “(A)” and “(B)” wherever appearing, and substituted “(i)” and “(ii)” for “(A)” and “(B)” wherever appearing, added subpar. (D), struck out subpar. (C) which read as follows: “Secretary to permit public housing authority to apply for loan management assistance be for a term of 180 months.”

Pub. L. 100–242, §262(c), added subsec. (v). 1984—Subsec. (d)(2). Pub. L. 98–479, §102(b)(6), substituted “Where the Secretary enters into an annual contributions contract with a public housing agency pursuant to which the agency will enter into a contract for assistance payments with respect to an existing structure, the contract for assistance payments may not be attached to the structure unless (A) the Secretary and the public housing agency approve such action, and (B) the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section.” for “A contract under this section may not be attached to the structure except where the Secretary specifically waives the foregoing limitation and the public housing agency approves such action, and the owner agrees to rehabilitate the structure other than with assistance under this chapter and otherwise complies with the requirements of this section. The aggregate term of such contract and any contract extension may not be more than 180 months.”

Subsec. (e)(2). Pub. L. 98–479, §102(b)(7), inserted at end “The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1) of this section, if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development.”

Subsec. (n). Pub. L. 98–479, §102(b)(8), substituted “subsections (b)(1) and (e)(2) of this section” for “subsection (b)(1), subsection (e)(2) of this section.”


Subsec. (b)(2). Pub. L. 98–181, §209(a)(2), repealed par. (2) which related to authorization of assistance payments by the Secretary and contractually obligated public housing agencies for construction or substantial rehabilitation of housing, modest in design, with units for occupancy by low-income families and requirement that contracts providing housing assistance and entered into after Aug. 13, 1981, certify the number of units available for occupancy by eligible families.

Subsec. (d)(1)(A). Pub. L. 98–181, §208(b)(1), inserted “...are paying more than 50 per centum of family income for rent.”


Subsec. (e)(1). Pub. L. 98–181, §209(a)(3), redesignated par. (4) as (1) and struck out former par. (1) which pre-
scribed terms of 20 to 30 years for newly constructed or substantially rehabilitated dwelling units.

Subsec. (e)(2). Pub. L. 98–181, § 209(a)(3), redesignated par. (2) and struck out par. (3) which required owners to assume ownership, management, and maintenance responsibilities, including selection of tenants and termination of tenancy for newly constructed or substantially rehabilitated dwelling units. Pub. L. 98–181, §203(b)(2), inserted "...are paying more than 50 per centum of family income for rent," after "substandard housing".

Subsec. (e)(3). Pub. L. 98–181, §209(a)(3), struck out par. (3) which required that construction or substantial rehabilitation of dwelling units be eligible for mortgage insurance under section 1715z–9 of title 12 or tax-exempt status obligations used to finance the construction or rehabilitation.

Subsec. (e)(4), (5). Pub. L. 98–181, §209(a)(3), redesignated pars. (4) and (5) as (1) and (2), respectively.

Subsec. (i). Pub. L. 98–181, §209(a)(4), repealed subsec. (1) which related to contracts with respect to substantially rehabilitated dwelling units.


Subsec. (n). Pub. L. 98–181, §209(a)(6), substituted "...section (e)(2) of this section" for "subsection (e)(5) and subsection (i) of this section".

Subsec. (o). Pub. L. 98–181, §210(1), (2), inserted "...subsection (b)(1) of this section," before "subsection (e)(5)" and a comma after "subsection (e)(5) of this section".


1981—Subsec. (b)(2). Pub. L. 97–35, §§324(1), 325(1), inserted provisions relating to increasing housing opportunities for very low-income families and provisions relating to availability for occupancy the number of units for which assistance is committed.


Subsec. (c)(7). Pub. L. 97–35, §323(e)(2), struck out par. (7) relating to requirement for families with very low income and redesignated former par. (8) as (7).


Former par. (8) redesignated (7).

Subsec. (d)(1)(A). Pub. L. 97–35, §326(e)(1), substituted provisions relating to terms and conditions, and termination of the lease by the owner for provisions relating to right of the agency to give notice to terminate and owner the right to make representation to agency for termination of the tenancy.

Subsec. (f). Pub. L. 97–35, §322(e)(3), struck out par. (1) to (3) which defined "lower income families", "very low-income families" and "income", respectively, and redesignated pars. (4) to (6) as (1) to (3), respectively.


Subsec. (j). Pub. L. 97–35, §329(a), generally revised and reorganized provisions and, as so revised and reorganized, substituted provisions relating to contracts to make rental assistance payments to lower income families by making rental assistance payments on behalf of such family, for provisions relating to annual contributions contracts to assist lower income families by making rental assistance payments.

Subsec. (j)(3). Pub. L. 97–35, §322(e)(6), substituted in par. (3) "the rent the family is required to pay under section 1475a(a) of this title" for "25 per centum of one-twentieth of the annual income of such family".

Subsecs. (l) to (n). Pub. L. 97–35, §323(a), added subsecs. (l) to (n).

1980—Subsec. (c)(1). Pub. L. 96–399, §203(a), inserted provision that in the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after Oct. 1, 1980.

Subsec. (e)(5). Pub. L. 96–399, §203(b), inserted provision relating to the authority of the Secretary, notwithstanding subsec. (c)(1) of this section, to establish monthly rent exceeding fair market rental where cost levels so require or where necessary to the implementation of a local housing assistance plan.


Subsec. (c)(3). Pub. L. 96–153, §206(b)(1), substituted new provisions for computation of the amount of monthly assistance units with respect to dwelling units and laid down criteria to be followed by the Secretary in regard to payments to families with different income levels.

Subsec. (d)(1)(A). Pub. L. 96–153, §206(b)(1), substituted "Secretary and the agency, except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section." for "Secretary and the agency.”

Subsec. (e)(1). Pub. L. 96–153, §211(b), substituted "term of less than two hundred and forty months" for "term of less than one month”.

Subsec. (e)(2). Pub. L. 96–153, §206(b)(2), substituted "performance of such responsibilities", except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section” for “performance of such responsibilities”.


1977—Subsec. (c). Pub. L. 95–128, §201(c)(3), inserted in par. (1) prohibition against high-rise elevator projects for families with children after Oct. 12, 1977, and struck out from par. (4) provision which prohibited payment after the sixty-day period if the unoccupied unit was in a project insured under the National Housing Act, except pursuant to section 1715z–9 of title 12.


Subsec. (e)(1). Pub. L. 95–24 substituted "two hundred and sixty months, except that such term may not exceed two hundred and forty months in the case of a project financed with assistance of a loan made by, or insured, guaranteed or intended for purchase by, the Federal Government, other than pursuant to section 1715z–9 of title 12" for "two hundred and forty months" and "Notwithstanding the preceding sentence, in the case of..." for "In the case of...".

Subsec. (e)(2). Pub. L. 95–128, §201(e)(2), inserted provision respecting the Secretary’s approval of any public housing agency for assumption of management and maintenance responsibilities of dwelling units under the preceding sentence.

1976—Subsec. (c)(4). Pub. L. 94–375, §2(d), inserted provision extending payments to newly constructed or substantially rehabilitated unoccupied units in an amount equal to the debt service of such unit for a period not to exceed one year, provided that a good faith effort is being made to fill the unit, the unit provides decent and safe housing, the unit is not insured under the National Housing Act, except pursuant to section 1715z–9 of title 12, and the revenues from the project do not exceed the cost.

Subsec. (e)(1). Pub. L. 94–375, §2(g), inserted “or the Farmers’ Home Administration” after “State or local agency”.

1975—Subsec. (c). Pub. L. 94–375, §2(c), added subsection (c).

**EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENTS**

Section 101(e) [title II, §203(d)] of Pub. L. 104–134, as amended by Pub. L. 104–204, title II, §201(e), Sept. 26, 1996, 110 Stat. 2883, provided that: "The provisions of this section [amending this section] shall be effective for fiscal years 1996 and 1997 only."


**EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT**

Amendment by Pub. L. 103–327 enacting subsec. (aa), effective only during fiscal year 1995, see title II in part of Pub. L. 103–327, set out as a note under section 1715m of Title 12, Banks and Banking.

**EFFECTIVE DATE OF 1992 AMENDMENT**

Amendment by section 1005 of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

**EFFECTIVE DATE OF 1990 AMENDMENT**

Amendment by section 229(b)(1) of Pub. L. 101–625, repealing subsec. (e)(2) of this section, effective Oct. 1, 1991; however, provisions of subsec. (e)(2) to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV [§11361 et seq.] of chapter 119 of this title, see section 12839(a)(4), (b) of this title.

**EFFECTIVE DATE OF 1983 AMENDMENT; SAVINGS PROVISION**

Section 209(b) Pub. L. 98–181 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

"(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 [this section] prior to January 1, 1984; and

"(2) with respect to any project financed under section 202 of the Housing Act of 1937 [12 U.S.C. 1701q]."

**EFFECTIVE DATE OF 1981 AMENDMENT**

Amendments by sections 322(e) and 329H(a) of Pub. L. 97–35 effective Oct. 1, 1981, and amendments by sections 324, 325, and 329(a) of Pub. L. 97–35 applicable with respect to contracts entered into on or after Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

Section 326(e)(2) of Pub. L. 97–35 provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to leases entered into on or after October 1, 1981."

**EFFECTIVE DATE OF 1979 AMENDMENT**

Amendment by section 202(b) of Pub. L. 96–153 effective Jan. 1, 1980, except with respect to amount of tenant contribution required of families whose occupancy commenced prior to such date, see section 202(c) of Pub. L. 96–153, set out as a note under section 1437c of this title.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Section 206(d)(2) of Pub. L. 95–557 provided that: "The amendment made by this subsection [amending this section] shall become effective with respect to contracts entered into on or after 270 days following the date of enactment of this Act [Oct. 31, 1978]."
contract shall be 7.5 percent of the base amount, adjusted as provided herein, in the case of an agency that, on an annual basis, is administering a program of more than 600 units, and 7 percent of the base amount, adjusted as provided herein, for each additional unit above 600.

"'(B) The base amount shall be the higher of—

"'(i) the fair market rental for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency; and

"'(ii) such fair market rental for fiscal year 1994, but not more than 103.5 percent of the amount determined under clause (i)."

"'(C) The base amount shall be adjusted to reflect changes in the wage data or other objectively measurable data that reflect the costs of administering the program during fiscal year 1996; except that the Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

"'(D) For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for the agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the cost of administering the program, as determined by the Secretary.

"'(E) The Secretary may increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas.

"'(F) The Secretary may decrease the fee for PHA-owned units.

"'(G) Beginning in fiscal year 1997 and thereafter, the Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"'(1) the costs of preliminary expenses, in the amount of $400, for a public housing agency, but only in the first year it administers a tenant-based assistance program under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and only if, immediately before the effective date of this Act [Sept. 26, 1996], it was not administering a tenant-based assistance program under the 1937 Act (as in effect immediately before the effective date of this Act), in connection with its initial increment of assistance received.

"'(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the program; and

"'(3) extraordinary costs approved by the Secretary.

"'(H) Similar provisions were contained in the following prior appropriations Acts:


"'(I) EFFECT OF MATERIAL ADVERSE ACTIONS AND OMISSIONS.—Notwithstanding paragraph (1) or any other provision of law, the Secretary shall not renew an expiring contract if the Secretary determines that the owner of the multifamily housing project has engaged in material adverse financial or managerial actions or omissions with regard to the project (or with regard to other similar projects if the Secretary determines that such actions or omissions constitute a pattern of mismanagement that would warrant suspension or debarment by the Secretary).
“(C) Transfer of Property.—For properties disqualified from the demonstration program because of actions by an owner or purchaser in accordance with subparagraph (b), the Secretary shall establish procedures to facilitate the voluntary sale or transfer of the property, with a preference for tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasers meeting such reasonable qualifications as may be established by the Secretary. The Secretary may include the transfer of section 8 project-based assistance.

“(D) Tenancy Protections.—Any family residing in an assisted unit in a multifamily housing project that is covered by an expiring contract that is not renewed, shall be offered tenant-based assistance before the date on which the contract expires or is not renewed.”

Pub. L. 104–120, §2(a), Mar. 28, 1996, 110 Stat. 834, provided that: “Notwithstanding section 405(b) of the Balanced Budget Paydownpayment Act, I (Public Law 104–99; 110 Stat. 44) [set out below], at the request of the owner of any project assisted under section 8(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f) (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels.”

Section 405(a), (b) of Pub. L. 104–99 provided that: “(a) For fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under the United States Housing Act of 1937 (42 U.S.C. 1437f), upon termination or expiration of a contract for assistance under section 8 of such Act of 1997 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

“(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at current rent levels.”

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

Section 212 of title II of Pub. L. 104–204 provided that: “(a) In General.—

“(1) Repeal.—


“(B) Exception.—Notwithstanding the repeal under subparagraph (A), amounts made available under section 210(f) [of the Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996] shall remain available for the demonstration program under this section through the end of fiscal year 1997.

“(2) Savings Provisions.—Nothing in this section shall be construed to affect any commitment entered into before the date of enactment of this Act (Sept. 26, 1986) under the demonstration program under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996.

“(b) Definitions.—For purposes of this section—

“(A) the term ‘demonstration program’ means the program established under subsection (b);

“(B) the term ‘expiring contract’ means a contract for project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that expires during fiscal year 1997;

“(C) the term ‘family’ has the same meaning as in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437fa(b));

“(D) the term ‘multifamily housing project’ means a property consisting of more than 4 dwelling units that is covered in whole or in part by a contract for project-based assistance;

“(E) the term ‘owner’ has the same meaning as in section 8(f) of the United States Housing Act of 1937;

“(F) the term ‘project-based assistance’ means rental assistance under section 8 of the United States Housing Act of 1937 that is attached to a multifamily housing project;

“(G) the term ‘Secretary’ means the Secretary of Housing and Urban Development; and

“(H) the term ‘tenant-based assistance’ has the same meaning as in section 8(f) of the United States Housing Act of 1937.”

“(2) Purpose.—The demonstration program shall be designed to obtain as much information as is feasible on the economic viability and rehabilitation needs of the multifamily housing projects in the demonstration, to test various approaches for restructuring mortgages to reduce the financial risk to the FHA Insurance Fund while reducing the cost of section 8 subsidies, and to test the feasibility and desirability of—

“(A) ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported at the comparable market rent with or without mortgage insurance under the National Housing Act or without additional section 8 rental subsidies;

“(B) utilizing section 8 rental assistance, while taking into account the capital needs of the projects and the need for adequate rental assistance to support the low- and very low-income families residing in such projects; and

“(C) preserving low-income rental housing affordability and availability while reducing the long-term cost of section 8 rental assistance.

“(c) Goals.—

“(1) In General.—The Secretary shall carry out the demonstration program in a manner that will protect the financial interests of the Federal Government through debt restructuring and subsidy reduction and, in the least costly fashion, address the goals of—

“(A) maintaining existing affordable housing stock in a decent, safe, and sanitary condition;

“(B) minimizing the involuntary displacement of tenants;

“(C) taking into account housing market conditions;

“(D) encouraging responsible ownership and management of property;

“(E) minimizing any adverse income tax impact on property owners; and

“(F) minimizing any adverse impacts on residential neighborhoods and local communities.

“(2) Balance of Competing Goals.—In determining the manner in which a mortgage is to be restructured
§ 1437f

and the residents of the owner's intent to participate in a demonstration program, the Secretary may enter into participation arrangements with designees, under which the Secretary may provide for the assumption by designees (by delegation, by contract, or otherwise) of some or all of the functions, obligations, responsibilities, and benefits of the Secretary.

(2) DESIGNEES.—In entering into any arrangement under this subsection, the Secretary shall select state housing finance agencies, housing agencies or nonprofit (separately or in conjunction with each other) to act as designees to the extent such agencies are determined to be qualified by the Secretary. In locations where there is no qualified State housing finance agency or nonprofit to act as a designee, the Secretary may act as a designee. Each participation arrangement entered into under this subsection shall include a designee as the primary party by the Secretary, subject to the funding agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (i), shall take not less than one of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) public housing agencies;
(B) financial institutions;
(C) mortgage servicers;
(D) nonprofit and for-profit housing organizations;
(E) the Federal National Mortgage Association;
(F) the Federal Home Loan Mortgage Corporation;
(G) Federal Home Loan Banks; and
(H) other State or local mortgage insurance companies or bank lending consortia.

(c) LON-TERM AFFORDABILITY.—Except as otherwise provided by the Secretary, in exchange for any mortgage restructuring under this section, a project shall remain affordable for a period of not less than 20 years. Affordable requirements shall be determined in accordance with guidelines established by the Secretary or designee. The Secretary or designee may waive these requirements for good cause.

(d) DEMONSTRATION CONTRACTS.—Upon receipt of a notice under paragraph (I), the owner and the Secretary or designee shall enter into a demonstration contract, which shall provide for initial section 8 project-based rents at the same rent levels as those under the expiring contract or, if practical, the budget-based rent to cover debt service, reasonable operating expenses (including administrative services), and a reasonable return to the owner, as determined solely by the Secretary. The demonstration contract shall be for the minimum term necessary for the rents and mortgages of the multifamily housing project to be restructured under the demonstration program, but shall not be for a period of time to exceed 180 days, unless extended for good cause by the Secretary.

(e) DEMONSTRATION ACTIONS.—For purposes of carrying out the demonstration program, and in order to ensure that contract rights are not abrogated, subject to such third party consents as are necessary (if any), including consent by the Government National Mortgage Association if it owns a mortgage insured by the Secretary, consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program, and consent by parties to any contractual agreement which the Secretary proposes to modify or discontinue, the Secretary or, except with respect to subparagraph (B), designee, subject to the funding limitation in subsection (i), shall take not less than any of the actions specified in subparagraphs (G), (H), and (I) and may take any of the following actions:

(A) REMOVAL OF RESTRICTIONS.—The Secretary or designee may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to apply any accumulated residual receipts toward effecting the purposes of this section.

(B) REINSURANCE.—With respect to not more than 3,000 units within the demonstration during fiscal year 1997, the Secretary may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance, on such terms and conditions as the Secretary may determine. Any contract entered into under this paragraph shall require that any associated units be maintained as low-income units for the life of the mortgage, unless waived by the Secretary for good cause.

(C) PARTICIPATION BY THIRD PARTIES.—The Secretary or designee may enter into such arrangements, provide such concessions, incur such costs, make such grants (including grants to cover all or a portion of the rehabilitation costs for a project) and other payments, and provide other valuable consideration as may reasonably be necessary for owners, lenders, servicers, third parties, and other entities to participate in the demonstration program. The Secretary may establish performance incentives for designees.

(D) SECTION 8 ADMINISTRATIVE FEES.—Notwithstanding any other provision of law, the Secretary may make fees available from the section 8 contract renewal appropriation to a designee for contract administration under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f et seq.] to recover costs which the Secretary or designee had incurred in connection with the designee's implementation of a demonstration program or project.
States Housing Act of 1937 [42 U.S.C. 1437f] for purposes of any other provision of law, the Secretary or designee may provide FHA multifamily mortgage insurance, reinsurance, or other credit enhancement alternatives, including retaining the existing FHA mortgage insurance on a restructured first mortgage at market value or using the multifamily risk-sharing mortgage programs, as provided under section 422 of the Housing and Community Development Act of 1992 [12 U.S.C. 1707 note]. Any limitations on the number of units available for mortgage insurance under section 422 shall not apply to insurance issued for purposes of the demonstration program.

"(ii) Maximum Percentage.—During fiscal year 1997, not more than 25 percent of the units in multifamily housing projects with expiring contracts in the demonstration, in the aggregate, may be restructured without FHA insurance, unless otherwise agreed to by the owner of a project.

"(iii) Credit Subsidy.—Any credit subsidy costs of providing mortgage insurance shall be paid from amounts made available under subsection (b).

"(G) Mortgage Restructuring.—

"(i) In General.—The Secretary or designee may restructure mortgages to provide a restructured first mortgage to cover debt service and operating expenses (including a reasonable rate of return to the owner) at the market rent, and a second mortgage equal to the difference between the restructured first mortgage and the mortgage balance of the eligible multifamily housing project at the time of restructuring.

"(ii) Credit Subsidy.—Any credit subsidy costs of providing a second mortgage shall be paid from amounts made available under subsection (b).

"(H) Debt Forgiveness.—The Secretary or designee, for good cause and at the request of the owner of a multifamily housing project, may forgive at the time of the restructuring of a mortgage any portion of a debt on the project that exceeds the market value of the project.

"(I) Budget-Based Rents.—The Secretary or designee may renew an expiring contract, including a contract for a project in which operating costs exceed comparable market rents, for a period of not more than one year, at a budget-based rent that covers debt service, reasonable operating expenses (including all reasonable and appropriate services), and a reasonable rate of return to the owner, as determined solely by the Secretary, provided that the contract does not exceed the rent levels under the expiring contract. The Secretary may establish a preference under the demonstration program for budget-based rents for unique housing projects, such as projects designated for occupancy by elderly families and projects in rural areas.

"(J) Section 8 Tenant-Based Assistance.—For not more than 10 percent of units in multifamily housing projects that have had their mortgages restructured in any fiscal year under the demonstration, the Secretary or designee may provide, with the agreement of an owner and in consultation with the tenants of the housing, section 8 tenant-based assistance for some or all of the assisted units in a multifamily housing project in lieu of section 8 project-based assistance. Section 8 tenant-based assistance may only be provided where the Secretary determines and certifies that there is inadequate affordable housing within the local area and that tenants will be able to use the section 8 tenant-based assistance successfully.

"(2) Offer and Acceptance.—Notwithstanding any other provision of law, an owner of a project in the demonstration must accept any reasonable offer made by the Secretary or a designee under this subsection. An owner may appeal the reasonableness of any offer to the Secretary and the Secretary shall respond within 30 days of the date of appeal with a final offer. If the final offer is not acceptable, the owner may opt out of the program.

"(i) Community and Tenant Input.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice, including an opportunity for comment and timely access to all relevant information, to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(ii) Transfer of Property.—The Secretary shall establish procedures to facilitate the voluntary sale or transfer of multifamily housing projects under the demonstration to tenant organizations and tenant-endorsed community-based nonprofit and public agency purchasing groups meeting such reasonable qualifications as may be established by the Secretary.

"(j) Limitations on Demonstration Authority.—The Secretary shall carry out the demonstration program with respect to mortgages not to exceed 50,000 units.

"(k) Funding.—In addition to the $30,000,000 made available under section 210 of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1996 (110 Stat. 1321) [section 101(e) [title II, § 210] of Pub. L. 104-134, formerly set out as a note below], for the costs (including any credit subsidy costs associated with providing direct loans or mortgage insurance) of modifying and restructuring loans held or guaranteed by the Federal Housing Administration, as authorized under this section, $10,000,000 is hereby appropriated, to remain available until September 30, 1998.

"(l) Report to Congress.—

"(1) In General.—

"(A) Quarterly Reports.—Not less than every 3 months, the Secretary shall submit to the Congress a report describing and assessing the status of the projects in the demonstration program.

"(B) Final Report.—Not later than 6 months after the end of the demonstration program, the Secretary shall submit to the Congress a final report on the demonstration program.

"(2) Contents.—Each report submitted under paragraph (1)(A) shall include a description of—

"(A) each restructuring proposal submitted by an owner of a multifamily housing project, including a description of the physical, financial, tenancy, and market characteristics of the project;

"(B) the Secretary’s evaluation and reasons for each multifamily housing project selected or rejected for participation in the demonstration program;

"(C) the costs to the FHA General Insurance and Special Risk Insurance funds;

"(D) the subsidy costs provided before and after restructuring;

"(E) the actions undertaken in the demonstration program, including the third-party arrangements made; and

"(F) the demonstration program’s impact on the owners of the projects, including any tax consequences.

"(3) Contents of Final Report.—The report submitted under paragraph (1)(B) shall include—

"(A) the required contents under paragraph (2); and

"(B) any findings and recommendations for legislative action.

Section 101(e) [title II, § 210] of title I of Pub. L. 104-134, Apr. 30, 1996, 110 Stat. 1321-257, 1321-285; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1267, which authorized the Secretary of Housing and Urban Development to develop a multifamily demonstration program and to transfer to the Secretary of Housing and Urban Development the funding authorized under this section, is hereby repealed, and is to be treated as though it had not been enacted, as long as such treatment does not affect other provisions of law amending title I of such Act.

Public Housing Moving to Work Demonstration

Section 101(e) [title II, §204] of Pub. L. 104–134 provided that:

'(a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

'(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 [42 U.S.C. 1437] housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g], modernization assistance provided under section 14 of such Act [42 U.S.C. 1437l], and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)], and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

'(c) APPLICATION.—An application to participate in the demonstration—

'(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937 [42 U.S.C. 1437f, 1437g, 1437l];

'(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

'(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

'(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)];

'(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family’s earned income for purposes of determining rent;

'(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

'(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

'(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

'(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

'(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(i) of the United States Housing Act of 1937 [42 U.S.C. 1437a(i)], and other appropriate factors as determined by the Secretary.

'(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

'(1) Section 16 of the United States Housing Act of 1937 [42 U.S.C. 1437p] shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

'(2) Section 12 of such Act [42 U.S.C. 1437l] shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

'(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 [42 U.S.C. 1437l, 1437f, 1437j] by a public housing agency participating in the demonstration under this part [section] shall not be diminished by its participation.

'(g) RECORDS, REPORTS, AND AUDITS.—

'(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

'(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

'(A) document the use of funds made available under this section;

'(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

'(C) describe and analyze the effect of assisted activities in addressing the objectives of this part [section].

'(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

'(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

'(h) EVALUATION AND REPORT.—

'(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

'(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

'(3) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 [42 U.S.C. 1437l] for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

'(i) for providing technical assistance in address—

"(A) shall be primarily directed at improving the quality and efficiency of demonstration programs and activities under this section;

"(B) shall ensure that all demonstration activities are evaluated and that any findings, recommendations, or opportunities for improvement are transmitted to the Congress; and

"(C) may be used for any other purpose to the extent that such use is consistent with the purpose of this demonstration; and

"(j) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.'
“(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.’’

COMMUNITY INVESTMENT DEMONSTRATION PROGRAM

(1) The Department shall carry out a demonstration program to attract pension fund investment in affordable housing through the use of project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

(2) Funding Requirements.—In carrying out this section, the Secretary shall ensure that not less than 50 percent of the funds appropriated for the demonstration program each year are used in conjunction with the disposition of either—

(A) multifamily properties owned by the Department; or

(B) multifamily properties securing mortgages held by the Department.

(3) Contract Terms.—

(A) In General.—Project-based assistance under this section shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

(i) provides assistance for a term of not less than 60 months and not greater than 180 months; and

(ii) provides for contract rents, to be determined in consideration of any costs for the construction, rehabilitation, or acquisition of the housing.

(B) Amendment to section 203.—[Amended section 1701z–11 of Title 12, Banks and Banking.]

(4) Limitation.—(1) The Secretary may not provide (or make a commitment to provide) more than 50 percent of the funding for housing financed by any single pension fund, except that this limitation shall not apply to the Secretary, after the end of the 6-month period beginning on the date notice is issued under subsection (e) that—

(A) there are no expressions of interest that are likely to result in approvable applications in the reasonably foreseeable future; or

(B) any such expressions of interest are not likely to use any funding under this section; and

(2) so informs the Committee on Banking, Finance, and Urban Affairs (now Committee on Banking and Financial Services) of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(5) If the Secretary determines that there are expressions of interest referred to in paragraph (1)(A)(ii), the Secretary may reserve funding sufficient in the Secretary’s determination to fund such applications and may use any remaining funding for other pension funds in accordance with this section.

(6) Implementation.—The Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section. The notice shall take effect upon issuance.

ERISA.—Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(d)], nothing in this section shall be construed to authorize any action or failure to act that would constitute a violation of such Act [29 U.S.C. 1001 et seq.].

(g) Report.—Not later than 3 months after the last day of each fiscal year, the Secretary shall submit to the Committee on Banking, Finance, and Urban Affairs (now Committee on Banking and Financial Services) of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report summarizing the activities carried out under this section during that fiscal year.

(b) Establishment of Standards.—Mortgages secured by housing assisted under this demonstration shall meet such standards regarding financing and securitization as the Secretary may establish.

(1) Authorization of Appropriations.—There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out this section.

(2) Termination Date.—The Secretary shall not enter into any new commitment to provide assistance under this section after September 30, 1996.

ADDITIONAL FISHERIES FOR CERTIFICATE AND HOUSING VOUCHER PROGRAMS DURING FISCAL YEAR 1994
Pub. L. 103–120, § 11(a), Oct. 27, 1993, 107 Stat. 1151, provided that: ‘‘Notwithstanding the second sentence of section 8(q) of the United States Housing Act of 1937 [42 U.S.C. 1437f(q)(1)], other applicable law, or any implementing regulations and related requirements, the fee for the ongoing costs of administering the certificate and housing voucher programs under sections (b) and (e) of section 8 of such Act during fiscal year 1994 shall be—

(1) not less than a fee calculated in accordance with the fair market rents for Federal fiscal year 1993; or

(2) not more than—

(A) a fee calculated in accordance with section 8(q) of such Act, except that such fee shall not be in excess of 3.5 percent above the fee calculated in accordance with paragraph (1); or

(B) to the extent approved in an appropriation Act, a fee calculated in accordance with such section 8(q).’’

EFFECTIVENESS OF ASSISTANCE FOR PHA-OWNED UNITS
Section 150 of Pub. L. 102–550 provided that: ‘‘The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, amending this section] shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.’’

MOVING TO OPPORTUNITY FOR FAIR HOUSING
Section 152 of Pub. L. 102–550, as amended by Pub. L. 103–120, § 3, Oct. 27, 1993, 107 Stat. 1148, provided that: ‘‘(a) Authority.—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to assist very low-income families with children who reside in public housing or receiving project-based assistance under section 8 of the United States Housing Act of 1937 to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The demonstration program carried out under this section shall compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8 tenant-based rental assistance programs. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

(b) Eligible Cities.—
§ 1437f

1437f

TRACTS WITH NONPROFIT ORGANIZATIONS TO PROVIDE COUNSEL -

PUBLISHED IN THE FEDERAL REGISTER, ESTABLISH ANY RE -

UHONING PROGRAMS — ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING REIMBURSEMENT OF FUNDS) OF TITLE II OF THE DE -

PARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1992 [PUBL. L. 102-139] (105 STAT. 745), AND THE CITY OF LOS ANGELES, CALIFORNIA, SHALL BE ELIGIBLE FOR THE DEMONSTRATION UNDER THIS SECTION.

C (c) SERVICES.—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

(i) REPORTS.—

(1) BIENNIAL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act (Oct. 29, 1992) (and biennially thereafter), the Secretary shall submit interim reports to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program. Such report shall also contain an assessment of such achievements for a comparable population of section 8 [42 U.S.C. 1437f] recipients who have not received assistance under the demonstration program.

(e) FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 [42 U.S.C. 1437f] for tenant-based assistance under section 8 of such Act [42 U.S.C. 1437f] is authorized to be increased by $50,000,000, on or after October 1, 1992, and by $165,000,000, on or after October 1, 1993, to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(f) IMPLEMENTATION.—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 29, 1992] and shall submit a final report to the Congress not less than 15 days before publication.

DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS

Section 153 of Pub. L. 102-550 provided that: "Not later than 2 years after the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall:

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625, set out below];

(2) evaluate the implementation and effects of existing demonstration and judicially mandated programs that help minority families receiving section 8 [42 U.S.C. 1437f] certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rentals, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional demonstration, research, or legislative action."

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(b) of Pub. L. 102-550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 522 of Pub. L. 102-550, set out as a note under section 1437a of this title.

TERMINATION OF EXISTING HOUSING PROGRAMS

Except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under subsec. (e)(2) of this section except for funds allocated under such section for six-room occupancy dwellings as authorized by subchapter IV (§11361 et seq.) of chapter 119 of this title, see section 12839(a)(4) of this title.

REPLACEMENT HOUSING DEMONSTRATION PROGRAM

Secretary of Housing and Urban Development to carry out program to demonstrate effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under this section, see section 513(a) of Pub. L. 101-625, set out as a note under section 1437p of this title.

PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION


(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) COMPREHENSIVE SERVICES.—Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the private rental housing market and homeownership within a reasonable period of time.

(3) COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing
agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (b).

(2) MEMBERSHIP.—Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the applicable public housing agency.

(B) A representative of the regional administrator of the Department of Housing and Urban Development.

(C) A representative of a local resident management corporation.

(D) A representative of a public housing agency.

(E) Not less than 1 individual affiliated with a local agency that administers programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among business engaged in the delivery of supportive services required under this paragraph. The coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (b).

(3) SOCIAL SERVICE COMMITTEES.—Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) with respect to the demonstration program as carried out by the applicable public housing agency, identify the specific services that are required to successfully carry out the demonstration program.

(4) INTERAGENCY COOPERATION.—The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(5) SCOPE OF DEMONSTRATION PROGRAM.—

(1) PARTICIPATING PUBLIC HOUSING AGENCIES.—The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) PARTICIPATING PUBLIC HOUSING UNITS.—Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the number of public housing units for families administered by each participating public housing agency.

(3) NONDISPLACEMENT.—No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(5) LEASE TERMS.—Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify—

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(6) TRANSFER OF AMOUNTS.—Operating subsidy amounts may be provided for a unit of housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(7) RENTAL TERMS.—Units leased by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident (as determined under section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b))), except that the rental charge may exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(8) INCOME MIX.—Not more than 20 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(9) COORDINATION WITH OTHER ENTITIES FOR DEVELOPMENT OF HOUSING.—A participating public housing agency may seek the cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to—

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.);

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low-income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(10) DETERMINATION OF LOCATION AND NUMBER OF UNITS.—

(A) IN GENERAL.—A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program. The Secretary may not exceed—

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;
"(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and

"(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

"(f) EXISTING PUBLIC HOUSING PROJECTS.—

"(1) IN GENERAL.—To facilitate the establishment of socioeconomically mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to low-income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

"(2) LIMITATIONS ON PUBLIC HOUSING RESIDENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by low-income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

"(B) EXCEPTION.—Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by low-income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public housing through establishing a socioeconomically mixed resident population.

"(3) NUMBER OF UNITS.—The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

"(4) RENTAL TERMS.—The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner in which units are utilized under the demonstration program by any low-income family occupying a unit in a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may not, at any time during the demonstration period, extend the period as provided under subsection (j)(1).

"(5) LEASE.—A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

"(6) VACANCY.—If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may—

"(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], and

"(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act [42 U.S.C. 1437f(b)], subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding the written system of preferences for selection established pursuant to section 8(d)(1)(A) of such Act, and permit the family to remain in the unit.

"(g) CONTRACTS WITH PARTICIPATING FAMILIES.—

"(1) IN GENERAL.—Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program. The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

"(2) ESTABLISHMENT OF CRITERIA.—Each public housing agency shall establish criteria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include—

"(A) the status and history of employment of family members;

"(B) enrollment of the children in the family in an educational program;

"(C) maintenance by the family of the family's previous dwelling;

"(D) ability of adult family members to complete training for long-term employment;

"(E) the existence and seriousness of any criminal records of family members; and

"(F) the status and history of substance abuse of family members.

"(3) CONTINUED RESIDENCE.—Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include—

"(A) all members of the family remaining drug-free;

"(B) no member of the family engaging in any criminal activity;

"(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

"(D) family members participating in the support services and counseling under subsection (b).

"(h) PROVISION OF SUPPORTIVE SERVICES.—For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities. Services shall include the following:

"(1) Remedial education.

"(2) Education for completion of high school.

"(3) Job training and preparation.

"(4) Child care.

"(5) Substance abuse treatment and counseling.

"(6) Training in homemaking skills and parenting.

"(7) Family counseling.


"(i) ECONOMIC ADVANCEMENT OF PARTICIPATING FAMILIES.—

"(1) EMPLOYMENT.—Under the demonstration program, for the entire term of residency of each partici-
A public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and retaining employment.

"(2) Final report.—Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

"(1) Definitions.—For purposes of this section:

"(1) The term ‘coordinating committee’ means a local coordinating committee established under subsection (b)(1).

"(2) The term ‘demonstration program’ means the program established by the Secretary under this section.

"(3) The term ‘low-income family’ means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

"(4) The term ‘operating subsidy amounts’ means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937 [42 U.S.C. 1437g].

"(5) The term ‘participating family’ means a family that is residing in a housing unit provided under subsection (e).

"(6) The term ‘participating public housing agency’ means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

"(7) The terms ‘public housing agency’, ‘public housing’, and ‘project’ have the meanings given such terms under section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

"(8) The term ‘Secretary’ means the Secretary of Housing and Urban Development.

"(9) The term ‘unit of general local government’ means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

"(m) Regulations.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 28, 1990].

"(n) Termination of Demonstration Program.—The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act [Nov. 28, 1990]."
rive Jan. 26, 1996, and only for fiscal years 1996 and 1997, see section 402(c) of Pub. L. 104-99, as amended, set out as an Effective and Termination Dates of 1996 Amendment note under section 1437a of this title.)

[Reference to preferences for assistance under section 1437d(c)(4)(A)(i), 1437f(d)(1)(A)(i), or 1437f(d)(3)(B) of this title (as such sections existed on the day before Jan. 26, 1996) be considered references to the written systems of preferences for selection established pursuant to section 1437d(c)(4)(A), 1437f(d)(1)(A), or 1437f(d)(3)(B), respectively, of this title, as amended by section 402 of Pub. L. 104-99, See section 402(d)(6)(B) of Pub. L. 104-99, set out as a note under section 1437d of this title.]

STUDY OF PUBLIC HOUSING FUNDING SYSTEM

Section 532 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for operation, maintenance and modernization of public housing, which study was to include a comparison of existing methods of funding in public housing with those used by Department of Housing and Urban Development in housing assisted under this section and a review of results of study entitled “Alternative Operating Subsidies Systems for the Public Housing Program”, with an update of such study as necessary, and to submit a report to Congress not later than 12 months after Nov. 28, 1990, detailing the findings of this study.

STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING

Section 525 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study assessing one or more revised methods of providing Federal assistance through local public housing agencies, examining methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capititated Federal payments on behalf of low income public housing tenants, and making specific assessments and to submit a report to Congress not later than 12 months after Nov. 28, 1990.

GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT

Section 526 of Pub. L. 101-625 directed Comptroller General to conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development procedures under this chapter, and submit a report to Congress regarding the findings and conclusions of the study not later than 12 months after Nov. 28, 1990.

PREFERENCE FOR NEW CONSTRUCTION UNDER THIS SECTION

Section 545(c) of Pub. L. 101-625, which provided that, with respect to housing constructed or substantially rehabilitated pursuant to assistance provided under subsec. (b)(2) of this section, as such provisions existed before Oct. 1, 1983, and projects financed under section 170(q) of Title 12, Banks and Banking, notwithstanding tenant selection criteria under contract between Secretary and owner pursuant to first sentence of such section, for at least 70 percent of units becoming available, tenant selection criteria for such housing was to give preference to families occupying substandard housing (including homeless families and those living in shelters), paying more than 50 percent of family income for rent, or involuntarily displaced, and system of local preferences established under subsec. (d)(1)(A)(ii) of this section by public housing agency was to apply to remaining units that became available, to extent that such preferences were applicable with respect to tenant eligibility limitations, was repealed by Pub. L. 104-99, title IV, §402(d)(4)(A), (F), effective Jan. 26, 1996, and only for fiscal years 1996 and 1997.

DOCUMENTATION OF EXCESSIVE RENT BURdens

Section 550(b) of Pub. L. 101-625 provided that:

“(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), which data shall include the share of family income paid toward rent.

“(2) REPORT.—Not less than annually, the Secretary shall submit a report to Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act (42 U.S.C. 1437a(a)(1)). The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary for legislative and administrative actions appropriate as a result of analysis of the data.

“(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency.”

INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS

Section 555 of Pub. L. 101-625 provided that: “Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)(2)), as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low income families and very low-income families.”

GAO STUDY REGARDING FAIR MARKET RENT CALCULATION

Section 558 of Pub. L. 101-625 directed Comptroller General to conduct a study to examine fair market rents under subsec. (c)(1) of this section which are wholly contained within such market areas and submit a report to Congress not later than 18 months after Nov. 28, 1990, regarding findings and conclusions.

STUDY OF UTILIZATION RATES

Section 559 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study of reasons for success or failure, within appropriate cities, in utilizing assistance made available for such areas under this section and submit a report to Congress concerning this study not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM

Section 561 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study to determine feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under subsec. (o) of this section and submit a report to Congress regarding findings and conclusions not later than the expiration of the 1-year period beginning on Nov. 28, 1990.

STUDY OF PRIVATE NONPROFIT INITIATIVES

Section 562 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to conduct a study to examine how private nonprofit initiatives to provide
low-income housing development in local communities across the country have succeeded, with particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development, and submit a report to Congress regarding findings not later than 1-year after Nov. 28, 1990.

**PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS**

Section 958 of Pub. L. 101–625, which directed Secretary of Housing and Urban Development to provide preferences for housing assistance programs to native Hawaiians in subsec. (a), described assistance programs available in subsec. (b), authorized Secretary to provide mortgage insurance in certain situations in subsec. (c), and defined pertinent terms in subsec. (d), was repealed by Pub. L. 102–238, §5(b), Dec. 17, 1991, 105 Stat. 1910.

**AUTHORIZATION FOR PROVISION OF ASSISTANCE TO PROGRAMS ADMINISTERED BY STATE OF HAWAII UNDER ACT OF JULY 9, 1921**


```
(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act [see Short Title note set out under section 12701 of this title], or the National Housing Act [12 U.S.C. 1701 et seq.], including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any property on lands set aside under the Act of July 9, 1921 (42 Stat. 108), upon which there is or will be located a multifamily residence, for which the Department of the Hawaiian Home Lands of the State of Hawaii—

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

(C) offers other security that is acceptable to the Secretary, subject to appropriate conditions prescribed by the Secretary.

(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible beneficiary as defined in the Act of July 9, 1921 (42 Stat. 108).''

**ANNUAL ADJUSTMENT FACTORS FOR RENTS UNDER LOWER-INCOME HOUSING ASSISTANCE PROGRAM**

Section 801(a), (b), (d), (e) of Pub. L. 101–235 provided that:

```
(1) In General.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)), the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency has approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually paid for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection occurring before the effective date of the regulations issued under subsection (e).''

```
(2) APPLICABILITY.—(A) In General.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) Final Litigation.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act (Dec. 15, 1989) that is final and not appealable (including any settlement agreement).

(3) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

(4) DETERMINATION OF CONTRACT RENT.—(I) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)), or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(II) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(5) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section], including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act (Dec. 15, 1989).''
```
PROHIBITION OF REDUCTION OF CONTRACT RENTS; BUDGET COMPLIANCE

Section 1004(b) of Pub. L. 100–628 provided that: “During fiscal year 1989, the amendment made by subsection (a)(2) [amending this section] shall be effective only to such extent as in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) [2 U.S.C. 908], to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.”

PROJECT-BASED LOWER-INCOME HOUSING ASSISTANCE; IMPLEMENTATION OF PROGRAM

Section 1005(a) of Pub. L. 100–628 provided that: “To implement the amendment made by section 148 of the Housing and Community Development Act of 1987 [Pub. L. 100–242, see 1988 Amendment note above], the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act [Nov. 7, 1988].”

USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS


“(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term ‘qualified project’ means any State financed project or local government or local housing agency financed project that—

“(1) was a project assisted under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f); or

“(2) was a project assisted under section 8(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2).”

PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION

Section 126 of Pub. L. 100–242 provided that:

“(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

The Secretary of Housing and Urban Development (in this section referred to as the ‘Secretary’ shall carry out a program to demonstrate the effectiveness of providing a comprehensive program of services to participating public housing residents in order to ensure the successful transition of such residents to private housing.

In carrying out the demonstration program, the Secretary shall consult with the heads of other appropriate Federal agencies to design and implement procedures to carry out the transition from public housing.

“(b) SCOPE OF DEMONSTRATION PROGRAM.—The Secretary shall carry out the demonstration program with respect to public housing administered by the Housing Authority of the City of Charlotte, in the State of North Carolina. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 10 additional public housing agencies.

“(c) REQUIREMENTS OF DEMONSTRATION PROGRAM.—

The demonstration program shall consist of the following requirements:

“(1) CONTRACT OF PARTICIPATION.—Each participating public housing agency may enter into a voluntary contract with any family that is to commence residence in a public housing project administered by the public housing agency. The contract shall be made part of the lease, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family.

“(2) REMEDIATION PHASE.—

“(A) During not to exceed the first 2 years of residence of a participating family in public housing, the public housing agency shall ensure the provision of remediation services to the family in accordance with the terms and conditions of the contract of participation, which may include—

“(i) remedial education;

“(ii) completion of high school;

“(iii) job training and preparation;

“(iv) substance abuse treatment and counseling;

“(v) training in homemaking skills and parenting; and

“(vi) training in money management.

“(B) During the remediation phase, the amount of rent charged the family may not be increased on the basis of any increase in earned income of the family.

“(3) TRANSITION PHASE.—

“(A) During not to exceed a 5-year period following completion of the remediation stage—

“(i) the head of the family shall be required to have full-time employment; and

“(ii) the public housing agency shall ensure the provision of counseling for the family with respect to homeownership, money management, and problem solving.

“(B) During the transition phase, the amount of rent charged the family may not be increased on the basis of any increase in family income; and

“(C) APPLICABILITY AND BUDGET COMPLIANCE—

“(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992 (Oct. 28, 1992), subject to the provisions of paragraph (2).

“(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.”

[Section 2(b) of Pub. L. 102–273 provided that: ‘‘The amendments made by subsection (a) [amending section 1012 of Pub. L. 100–628, set out above] shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992.’’]
“(i) may not be decreased on the basis of any decrease in earned income due to voluntary termination of employment.

“(4) ENCOURAGEMENT OF SAVINGS.—The public housing agency shall take appropriate actions (including the establishment of an escrow savings account) to encourage each participating family to save funds during the remediation and transition phases.

“(5) EFFECT OF INCREASES IN FAMILY INCOME.—

“(A) Any increase in the earned income of a family during participation in the demonstration program under this section may not be considered as income or a resource for the purpose of denying the eligibility of, or reducing the amount of benefits payable to, the family under any other Federal law, unless the income of the family increases at any time to not less than 50 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

“(B) If at any time during the participation of a family in the demonstration program the income of the family increases to not less than 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families), the participation of the family in the demonstration program shall terminate.

“(6) COMPLETION OF TRANSITION.—Each family participating in the demonstration program shall be required to complete the transition out of public housing during a period of not more than 7 years. The public housing agency shall extend the period for any family that requests an extension for good cause.

“(d) REPORTS TO CONGRESS.—

“(1) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this Act [Feb. 5, 1988], the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

“(2) FINAL REPORT.—Not later than 60 days after the termination of the demonstration program under subsection (f), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section.

“(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

“(f) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 7-year period beginning on the date of the enactment of this Act [Feb. 5, 1988].”

Nondiscrimination Against Section 8 Certificate Holders and Voucher Holders

Section 183(c) of Pub. L. 100–242 provided that: “No owner of a subsidized project (as defined in section 203(c)(2) of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z–11(i)(2)], as amended by section 181(h) of this Act) shall refuse—

“(1) to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937 [this section], to a holder of a certificate of eligibility under such section, a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

“(2) to lease any available dwelling unit in any such project of such owner to a holder of a voucher under section 8(c) of such Act, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.”

Withdrawal by Owners, Developers, and Sponsors From Programs Under This Section; Survey and Determination of Number; Notification of Rent Increases; Report to Congress; Regulations To Prevent Conflict of Interest on the Part of Federal, State, and Local Officials; Recovery of Legal Expenses; Contents of Annual Report


“(b)(1) Within one year after the date of enactment of this Act [Aug. 13, 1981], the Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 [this section] and are owned by developers or sponsors with five-year annual contributions contracts who plan to withdraw from the section 8 program when their contracts expire and who will increase rents in those projects to levels that the current residents of those projects will not be able to afford. Where such survey indicates that an owner intends to withdraw from the program, the Secretary shall notify affected residents of possible rent increases.

“(2) Not later than one year after the date of the enactment of this Act [Aug. 13, 1981], the Secretary shall transmit to the Congress a report indicating alternative methods which may be utilized for recapturing the cost to the Federal Government of front-end investment in those units which are removed from the section 8 program.

“(c) The Secretary of Housing and Urban Development, after consultation with the Attorney General, shall develop regulations to prevent possible conflicts of interest on the part of Federal, State, and local government officials with regard to participation in projects assisted under section 8 of the United States Housing Act of 1937 [this section], and shall make such regulations effective not later than 180 days after the date of enactment of this Act [Aug. 13, 1981].

“(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

“(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

“(A) 50 percent of the amount actually collected, or

“(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

“(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

“(3) RECOVERY.—Amounts may be recovered under this paragraph—

“(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency’s investigation where the agency seeks prosecution of a family or where an agency seeks prosecution of an owner; or

“(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker pursuant to section 6(k) of the United States Housing Act of 1937 [42 U.S.C. 1437d(k)].”
§ 1437g. Annual contributions for operation of low-income housing

(a) Determination of amounts; contract authorization; standards for payments; necessity of contribution contracts; performance funding system; audit

(1)(A) In addition to the contributions authorized to be made for the purposes specified in section 1437c of this title, the Secretary may make annual contributions to public housing agencies for the operation of low-income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (i) to assure the lower income character of the projects involved, and (ii) to achieve and maintain adequate operating services and reserve funds. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment subject to the availability of funds, and such contract shall provide that no disposition of the low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary. If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition.

(B)(i) Annual contributions under this section to any public housing agency for any project with a sufficient number of residents who are frail elderly or persons with disabilities may be used, with respect to such project, for (I) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to residents of the project who are frail elderly or persons with disabilities to enable such residents to live independently and prevent placement in nursing homes or institutions; and (II) expenses for the provision of services for such residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be paid under this section. For purposes of this clause, the term "frail elderly" shall have the meaning given the term under section 1701(q)(ii) of title 12, except that such term does not include any person receiving assistance provided under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] or section 8011 of this title, and the